

SECOND REGULAR SESSION

# HOUSE BILL NO. 1608

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ROBIRDS, MYERS (Co-sponsors), OSTMANN, SURFACE, BERKSTRESSER, GRAHAM, RECTOR, BARNETT, GASKILL, QUINN, HOLAND, LUETKEMEYER, GRATZ, BOUCHER, CUNNINGHAM, BEHNEN, HENDERSON AND MOORE .

Read 1<sup>st</sup> time January 23, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3593L.01I

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### AN ACT

To repeal section 429.013, RSMo, and to enact in lieu thereof one new section relating to statutory liens against real estate.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 429.013, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 429.013, to read as follows:

429.013. 1. The provisions of this section shall apply only to the repair or remodeling of or addition to owner-occupied residential property of four units or less. The term "owner" means the owner of record at the time any contractor, laborer or materialman agrees or is requested to furnish any work, labor, material, fixture, engine, boiler or machinery. The term "owner-occupied" means that property which the owner currently occupies, or intends to occupy and does occupy as a residence within a reasonable time after the completion of the repair, remodeling or addition which is the basis for the lien sought, pursuant to this section. The term "residential property" means property consisting of four or less existing units to which repairs, remodeling or additions are undertaken. This section shall not apply to the building, construction or erection of any improvements constituting the initial or original residential unit or units or other improvements or appurtenances forming a part of the original development of the property. The provisions added to this subsection in 1990 are intended to clarify the scope and meaning of this section as originally enacted.

2. No person, other than an original contractor, who performs any work or labor or furnishes any material, fixtures, engine, boiler or machinery for any building or structure shall

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 have a lien under this section on such building or structure for any work or labor performed or  
17 for any material, fixtures, engine, boiler, or machinery furnished unless an owner of the building  
18 or structure pursuant to a written contract has agreed to be liable for such costs in the event that  
19 the costs are not paid. Such consent shall be printed in ten point bold type and signed separately  
20 from the notice required by section 429.012 and shall contain the following words:

21 CONSENT OF OWNER

22 CONSENT IS HEREBY GIVEN FOR FILING OF MECHANIC'S LIENS BY ANY  
23 PERSON WHO SUPPLIES MATERIALS OR SERVICES FOR THE WORK DESCRIBED  
24 IN THIS CONTRACT ON THE PROPERTY ON WHICH IT IS LOCATED IF HE IS NOT  
25 PAID.

26 3. In addition to complying with the provisions of section 429.012, every original  
27 contractor shall retain a copy of the notice required by that section and any consent signed by an  
28 owner and shall furnish a copy to any person performing work or labor or furnishing material,  
29 fixtures, engines, boilers or machinery upon his request for such copy of the notice or consent.  
30 It shall be a condition precedent to the creation, existence or validity of any lien by anyone other  
31 than an original contractor that a copy of a consent in the form prescribed in subsection 2 of this  
32 section, signed by an owner, be attached to the recording of a claim of lien. The signature of one  
33 or more of the owners shall be binding upon all owners. Nothing in this section shall relieve the  
34 requirements of any original contractor under sections 429.010 and 429.012.

35 4. In the absence of a consent described in subsection 2 of this section, full payment of  
36 the amount due under a contract to the contractor shall be a complete [defense to all liens] **bar**  
37 **to any action** filed by any person performing work or labor or furnishing material, fixtures,  
38 engines, boilers or machinery. Partial payment to the contractor shall **not bar any claim but**  
39 **shall** only act as an offset to the extent of such payment.

40 5. Any person falsifying the signature of an owner, with intent to defraud, in the consent  
41 of owner provided in subsection 2 of this section shall be guilty of a class C felony. Any original  
42 contractor who knowingly issues a fraudulent consent of owner shall be guilty of a class C  
43 felony.